

This Contract is hereby made and entered into by and between the Triangle J Council of Governments, (the "Agency") and the City of Durham (the "Grantee") (referred to collectively as the "Parties").

1. Contract Documents: This Contract consists of the Grant Contract and its attachments, all of which are identified by name as follows:
 - Sub-award Grant Contract No. 3977-A
 - Grant Contract No. 3977 as executed between TJCOG and NC DENR and all attachments therein (Attachment A)
2. Precedence Among Contract Documents: In the event of a conflict between terms of the Contract Documents, the term in the Contract Document with the highest relative precedence prevails. The order of precedence is established by the order of documents in Paragraph 1, above, with the first-listed document having the highest precedence and the listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment has the highest precedence and the oldest amendment has the lowest precedence.
3. Contract Period: This Contract shall be effective on July 1, 2011 and shall terminate on February 10, 2012.
4. Service Period: The Grantee begins providing services on July 1, 2011. The Grantee undertakes and completes its services in a sequence that assures expeditious completion in light of the purposes of this agreement. Grantee completes its services on February 10, 2012.
5. Grantee's Duties: The Grantee provides the services as described in Attachment A, 2011 Diesel Emission Reduction Grant "City of Durham Clean Diesel Replacement Program", and in accordance with the approved budget in Attachment A.
6. Agency's Duties: The Agency shall pay the Grantee in the manner and in the amounts specified in the Contract Documents. The total amount paid by the Agency to the Grantee under this Contract shall not exceed eighty thousand dollars (\$80,000.00). The Grantee's matching requirement is \$440,000. Total budget is \$520,000.
7. Reversion of Unexpended Funds: Any unexpended grant funds shall revert to the Agency upon termination of this Contract.
8. Reporting Requirements: Any Grantee receiving at least \$15,000 but less than \$500,000 in state funds from the Agency within any fiscal year is required to file with each funding state agency a sworn accounting of receipts and expenditures of state funds in the format approved by the State Auditor. This accounting must be attested to by the Grantee fiscal officer and one other authorizing officer of the Grantee. This accounting must be filed with each funding state agency within six months after the end of the Grantee's operating year. If the Grantee receives STATE funds of \$500,000 or more during its fiscal year, it must file with the State Auditor and each funding agency its audited financial statements in accordance with the standards and formats prescribed by the State Auditor in Memorandum NGO-2 "Grantee Audit Reports." If the Grantee receives \$500,000 or more in FEDERAL awards during its fiscal year from any source, including federal funds passed through the State or other grantors, it must obtain a single audit or program-specific audit conducted in accordance with the Federal Office of Management and

Budget's Circular A-133 "Audits of States, local Government and Non-Profit Organizations." If the above amounts are not met by one single funding agency, but rather any combination of funding agencies, then the appropriate reports shall be sent to the Office of the State Auditor and to the Agency. Also, a corrective action plan for any audit findings and recommendations must be submitted along with the audit report or within the period specified by the applicable OMS Circular or Memorandum.

9. **Payment Provisions:** The Agency reimburses the Grantee for actual allowable expenditures with the Agency retaining a minimum of ten percent (10%) of the Agency's funds until all required activities are completed and reports/deliverables are received and accepted by the Agency. An allowable expenditure is defined as one associated with work performed to meet the milestones that have been addressed during the specific reporting period. The Agency may withhold payment on invoices when the Grantee fails to accomplish the milestones stated in Attachment A.
10. **Invoices:** The Grantee submits invoices to the Agency Contract Administrator at least quarterly. The final invoice must be received by the Agency within 45 days after the end of the contract period. Amended or corrected invoices must be received by the Agency's Office of the Controller within six months after the end of the contract period. The Agency will not pay any invoice received more than 6 months after the end of the effective period.
11. **Contract Administrators:** Each Party submits notices, questions and correspondence to the other Party's Contract Administrator. The name, address, telephone number, fax number, and email address of the Parties' initial Contract Administrators are set out below. Either Party may change the name, address, telephone number, fax number, or email address of its Contract Administrator or Principal Investigator or Key Personnel by giving timely written notice to the other Party. Any changes in the scope of the contract which increase or decrease the Grantee's compensation are not effective until approved in writing by the Agency's Head or Authorized Agent.

Agency Contract Administrator:

Kathy Boyer
Triangle J Council of Governments
POBox 12276
Research Triangle Park, NC 27709
Telephone: (919) 558-9400
Fax: (919) 549-9390
Email: kboyer@tjcog.org

Sub-Awardee Principal Investigator:

Clayton Hearne
City of Durham
1900 Camden Avenue
Durham, NC 27704
Telephone: (919) 560-4175
Fax: (919) 560-4631
Email: Clayton.Hearne@durhamnc.gov

12. **Grantee Principal Investigator or Key Personnel:** The Grantee shall not substitute the Principal Investigator or key personnel assigned to the performance of this contract without prior approval by the Agency Contract Administrator.
13. **Supplantation of Expenditure of Public Funds:** The Grantee assures that funds received pursuant to this Contract shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Grantee otherwise expends for ARRA State Clean Diesel services and related programs. Funds received under this Contract shall be used to provide

additional public funding for such services; the funds shall not be used to reduce the Grantee's total expenditure of other public funds for such services.

14. Disbursements: As a condition of this Contract, Grantee acknowledges and agrees to make disbursements in accordance with the following requirements:
- a) Implement adequate internal controls over disbursements;
 - b) Pre-audit all vouchers presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
 - c) Assure adequate control of signature stamps/plates;
 - d) Assure adequate control of negotiable instruments; and
 - e) Implement procedures to insure that account balance is solvent and reconcile the account monthly.
15. Outsourcing: The Grantee certifies that it has identified to the Agency all jobs related to the Contract that have been outsourced to other countries, if any. Grantee further agrees that it will not outsource any such jobs during the term of this Contract without providing notice to the Agency and obtaining written approval from the Agency Contract Administrator prior to outsourcing.
16. Signature Warranty: The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

TRIANGLE J COUNCIL OF GOVERNMENTS

City of Durham

By: Kirby Bowers, Executive Director

By:

Date

Date

Attest:

Attest

_____(Seal)

_____(Seal)

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer